

§ 37.300

the following minimum requirements for any hearing:

(1) The hearing shall be fair, shall be conducted before members of the disciplinary panel, and shall be promptly convened after reasonable notice to the respondent; and

(2) If the respondent has requested a hearing, a copy of the hearing shall be made and shall become a part of the record of the proceeding. The record shall not be required to be transcribed unless:

(i) The transcript is requested by Commission staff or the respondent;

(ii) The decision is appealed pursuant to the rules of the swap execution facility; or

(iii) The decision is reviewed by the Commission pursuant to section 8c of the Act or part 9 of this chapter. In all other instances, a summary record of a hearing is permitted.

(d) *Decisions.* Promptly following a hearing conducted in accordance with the rules of the swap execution facility, the disciplinary panel shall render a written decision based upon the weight of the evidence contained in the record of the proceeding and shall provide a copy to the respondent. The decision shall include:

(1) The notice of charges or a summary of the charges;

(2) The answer, if any, or a summary of the answer;

(3) A summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report;

(4) A statement of findings and conclusions with respect to each charge, and a complete explanation of the evidentiary and other basis for such findings and conclusions with respect to each charge;

(5) An indication of each specific rule that the respondent was found to have violated; and

(6) A declaration of all sanctions imposed against the respondent, including the basis for such sanctions and the effective date of such sanctions.

(e) *Disciplinary sanctions.* All disciplinary sanctions imposed by a swap execution facility or its disciplinary panels shall be commensurate with the violations committed and shall be clearly sufficient to deter recidivism or

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similar violations by other market participants. All disciplinary sanctions, including sanctions imposed pursuant to an accepted settlement offer, shall take into account the respondent's disciplinary history. In the event of demonstrated customer harm, any disciplinary sanction shall also include full customer restitution, except where the amount of restitution or to whom it should be provided cannot be reasonably determined.

(f) *Warning letters.* Where a rule violation is found to have occurred, no more than one warning letter may be issued per rolling twelve month period for the same violation.

(g) *Additional sources for compliance.* A swap execution facility may refer to the guidance and/or acceptable practices in appendix B of this part to demonstrate to the Commission compliance with the requirements of § 37.206.

Subpart D—Swaps Not Readily Susceptible to Manipulation

§ 37.300 Core Principle 3—Swaps not readily susceptible to manipulation.

The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.

§ 37.301 General requirements.

To demonstrate to the Commission compliance with the requirements of § 37.300, a swap execution facility shall, at the time it submits a new swap contract in advance to the Commission pursuant to part 40 of this chapter, provide the applicable information as set forth in appendix C to part 38 of this chapter—Demonstration of Compliance That a Contract is not Readily Susceptible to Manipulation. A swap execution facility may also refer to the guidance and/or acceptable practices in appendix B of this part.

Subpart E—Monitoring of Trading and Trade Processing

§ 37.400 Core Principle 4—Monitoring of trading and trade processing.

The swap execution facility shall:

(a) Establish and enforce rules or terms and conditions defining, or specifications detailing: